

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILLIP BIG LEGGINS,

Defendant.

CR 04-112-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Phillip Big Leggins (Big Leggins) has been accused of violating conditions of his supervised release. (Doc. 77). Big Leggins admitted the alleged violation. Big Leggins' supervised release should be revoked. Big Leggins should be sentenced to custody for 12 months and 1 day, with no supervised release to follow.

II. Status

Big Leggins plead guilty on September 28, 2004, to the offenses of Count I: Aggravated Sexual Abuse, in violation of 18 U.S.C. Sections 1153, 2241(a) and Count II: Use of Firearm During a Crime of Violence, in violation of 18 U.S.C. Section 924(c)(1)(A)(ii) as charged in the Superseding Indictment. (Doc. 21). Big

Leggins was sentenced to 144 months of custody followed by 3 years of supervised release on Count I and to 84 months of custody followed by 3 years of supervised release on Count II. The custodial terms were ordered to run consecutively, and the supervised release terms were ordered to run concurrently. (Doc. 26). Big Loggins's current term of supervised release began on May 3, 2024.

Petition

On May 8, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Big Loggins's supervised release. (Doc. 77). The Petition alleged Big Leggins violated the conditions of his supervised release by (1) having been released from the Bureau of Prisons custody on May 3, 2024, failed to report within 72 hours to the United States probation office in Great Falls, Montana, the district to which the Defendant was released. Big Leggins was arrested on May 31, 2024.

Initial Appearance

Big Leggins appeared before the Court on June 11, 2024. Big Leggins was represented by counsel. Big Leggins stated that he had read the Petition and that he understood the allegation against him. Big Leggins waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on June 11, 2024. Big Leggins admitted that he had violated the conditions of supervised release as set forth in the Petition by (1) failing to report within 72 hours of his release from imprisonment to the United State probation office in Great Falls, Montana, the district to which the Defendant was released. The violation is serious and warrants revocation of Big Leggins' supervised release.

Sentencing hearing

Big Leggins appeared before the Court on June 11, 2024. Big Leggins' violation is a Grade C violation. His criminal history category is II. Big Leggins' underlying offenses, both Count I and Count II, are Class A felonies. Big Leggins could be incarcerated for up to 60 months. Big Leggins could be ordered to remain on supervised release for 39 months less any custody time. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

III. Analysis

Big Leggins' supervised release should be revoked. Big Leggins should be sentenced to custody for 12 months and 1 day, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Big Leggins that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Big Leggins of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Big Leggins that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Big Leggins stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before Judge Morris.

The Court **FINDS:**

That PHILLIP BIG LEGGINS, has violated the conditions of his supervised release by: (1) failing to report within 72 hours of his release from imprisonment to the United States probation office in Great Falls, Montana, the federal judicial district to which he was released.

The Court **RECOMMENDS:**

That the District Court revoke Big Leggins' supervised release and sentence Big Leggins to custody for 12 months and 1 day with no supervised release to follow. The Court further recommends that Big Leggins' custodial sentence be served at Fairton FCI.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 11th day of June 2024.


John Johnston
United States Magistrate Judge